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## EXPORT TRADE PROBLEMS AND AN AMERICAN FOREIGN TRADE POLICY

### I. THE NEED FOR A FOREIGN TRADE POLICY

The United States, almost overnight, has become a world-power in foreign trade. Both from within and without a call has come to America to expand its sphere of commercial activities in foreign lands. Virtually without our doing, obstacles have been removed and our efforts aided in opening up new avenues of trade for American products beyond our coasts, which but three years ago would have appeared impossible. Through the exigencies of the present great world-conflict we have been thrust beyond our former provincial sphere into the seething whirlpool of international trade and finance. Events have moved so rapidly that we are already able to enter the field of foreign trade in the new capacity of an investor and organizer. In fact, it would appear as though in the not distant future the United States will become the leader among the commercial nations of the world.

The present time seems most opportune to come to an understanding among ourselves as a nation with respect to our future commercial policy and regarding the fundamental issues involved. There never were such arguments or such inducements for a people

to take cognizance of their commercial future as those that confront the people of the United States today. Delay and lack of harmonious action may forfeit these opportunities forever.

The position in which we find ourselves with respect to foreign trade at the present time differs essentially from that of the other large commercial nations of the world. They established themselves in foreign markets after long, arduous, and systematic work. Having once succeeded in gaining a foothold, they developed and expanded their foreign commercial enterprises on the basis of a well-defined program and guided by a systematic national trade policy. This applies to England, Germany, France, Switzerland, Holland, Belgium, and Japan, as well as to some of the smaller commercial nations. Their remarkable foreign trade mechanisms, the close co-operation between private enterprises and governmental agencies, their superior facilities for commercial education built up with a view to promote foreign trade on the basis of a carefully worked out program, have only recently become known more fully to the outside world. The economic and commercial organization of their consular service, their promotion of a merchant marine and close co-ordination of this with railroads and inland waterways, their careful working out of trade agreements—these foreign trade activities of foreign nations are even now little known and appreciated in the United States.

One of the outstanding features in the modern history of foreign trade consists in its pronounced nationalistic tendency. The manufacturers and exporters of the countries mentioned above carry on their oversea trade not along individualistic but along nationalistic lines. Their foreign salesmen settle permanently in their respective sales territory and form communities bound together by ties of race relationship. Thus we find British and German trade colonies all over the world, while the Japanese, Italians, and Greeks follow along very similar lines. From the reciprocal interests of common nationality springs a solidarity of interests which has proved a bulwark of strength in the face of competition as keen as human ingenuity can make it. By means of financial and moral support their home governments have encouraged such settlements and kept alive the bonds that tied them to the mother-country as part

of a foreign trade policy calculated to promote the commercial industries at home.

An analysis of the mechanism built up by other countries for expanding their foreign trade will show that efficient service and the best results were obtained chiefly by the two following methods: first, by centralizing and correlating all efforts and agencies; secondly, by working along the lines of a constructive national foreign trade policy.

The United States thus far has not had a national foreign trade policy which like a guiding hand would combine all our interests and direct our concerted efforts toward a definite goal. Reasons for this are not difficult to find. Conditions were such that a pressing need for a clearly formulated program of this kind was not sufficiently felt until very recently. The demands of our domestic market were sufficient to absorb the bulk of our home production. Our captains of industry were primarily concerned with the development of our complex and lucrative business opportunities at home. Our foreign trade was small in proportion to our domestic trade and comprised chiefly foodstuffs and raw materials.

Besides, up to quite recently there were no concerted and organized efforts made in this country for promoting foreign trade on a large scale. Whatever was being done along these lines was restricted almost wholly to comparatively small groups of wide-awake business men and to large individual corporations. Commendable pioneer work was done by the United States Bureau of Foreign and Domestic Commerce, by several local chambers of commerce, to some extent also by the Pan-American Union, and especially by the Philadelphia Commercial Museum. As a nation, however, we were in this respect far behind our foreign competitors.

## II. THE WAR'S EFFECTS ON FOREIGN TRADE OF OTHER NATIONS

The new opportunities for trade expansion brought about by the present world-war and resulting largely from the elimination of Germany and Austria from world-markets have served as a mighty stimulus to the export trade of those countries which were in a position to take advantage of them.

Japan, more than any other country, has availed herself of the opportunity offered by the general economic disruption of the world to capture new markets and to increase her overseas trade. How well she has succeeded may be seen from the fact that her exports to the Dutch East Indies during 1916 amounted to nearly six times the value of her exports to the same markets in 1913, while her export trade to China increased 117 per cent from 1911 to 1916. Her trade to South American countries, Australasia, and Africa has made an equally rapid progress.

While some of her new trade may again revert to other countries after the war, Japan has not neglected to provide ways and means to retain as much of it as possible. With this end in view the Japanese government in conjunction with large private financial and industrial interests has built a comprehensive foreign trade machinery, the most significant feature of which is a central control of all shipping administration. The shipyards of Japan have now under way places for turning out some 600,000 tons a year. With government aid and protection the sugar industry is now able to supply domestic consumption and to export a considerable surplus production. Systematic efforts to increase the exports of textiles and fancy goods have brought telling results. Large and well-financed cartels of producers and exporters have been formed for this purpose. One of these, the Associated Industries of Japan, comprising 160 textile manufacturers, recently established in Vancouver a main office for Canada and the United States. With government aid large promoting concerns have been organized for financing commercial and trade enterprises abroad. In the case of one of these, for example, the Home and Foreign Enterprise and Trust Company, Ltd., the government appoints the president and vice-president.

As a typical instance of the far-sightedness which guides the foreign trade policy of Japan we may mention the recently inaugurated system of inspection of exports. Under the new regulation certain goods (hosiery, silk, glassware, hardware, matches, etc.) must pass a standard of inspection before they will be allowed to be exported. The Ministry of Agriculture and Commerce and the trade guilds co-operate in this matter and expect thereby to prevent

the export of goods of inferior quality and to establish a permanent reputation for excellence of quality in Japan-made goods.

England, too, has lost no time during the present war in rejuvenating her foreign trade organization, directing her efforts principally along the lines of centralization and co-ordination. A change of fundamental importance is the recent creation of a new Overseas Trade Department formed jointly out of the Board of Trade and the Foreign Office. This new department, under the direction of Sir Arthur Maitland, comprises an Overseas Division, a United Kingdom Division, and an Exhibition Division. The Overseas Division was organized in geographical sections, while the United Kingdom Division was subdivided according to trades and industries. It is significant that this new department is not only to collect information but also to take action in matters relating to trade and commerce overseas. An Advisory Committee, representing finance, banking, merchants, manufacturers, chambers of commerce and labor, gives active assistance in studying new problems and in formulating proposals. The Trade Commission Service within the Empire has been increased from four to sixteen officers and extended to cover India and some of the Crown colonies and protectorates as well as the self-governing dominions. The Commercial Attaché Service is also being reorganized and greatly increased in membership. The control of both of these services has been turned over to the new Overseas Trade Department.

Another phase of trade expansion actively fostered by the British government at the present time is the holding of so-called British industries fairs or trade exhibitions, throughout Great Britain and her colonies, under the watchword "British Goods for British People."

In this connection still another scheme on national lines for the encouragement and development of the British export trade may be mentioned, viz., the formation of "The British Manufacturers' Corporation." This concern is to unite British manufacturers and producers into one large body for the specific purpose of securing more orders from oversea.

This is in line with what has been declared the "considered policy" of the Board of Trade, viz., the establishing of combines and

cartels in British industry. Under the caption, "The Extinction of the Merchant," the *Economist* of December 1, 1917,<sup>1</sup> quotes a representative of the Board of Trade as saying in a recent address to the Brassmasters' Association of Birmingham that competition among British manufacturers did not do any good to the country and that competition must be done away with. The speaker, a Mr. Paish, further advocated that organizations be established which would enable British manufacturers to "dump" whenever they felt inclined.

In a similar address to the manufacturing jewelers of Birmingham the latter were told that the Board of Trade wanted them to join together in an association for selling their goods abroad, and that half of the expenses would be paid out of the public revenue. "There can, we think," comments the *Economist*, "be no doubt that the new association, if it thrives, will develop into a complete combine, with one single selling organization for the whole, controlling both the home and the foreign trade."

While Germany has been eliminated for the time being from the international trade routes, indications are that state and private interests are making elaborate preparations for a renewal of vigorous oversea trade activities after the war. Government assistance of the steamship companies is a part of this plan, which also comprises the organization of a German shipping intelligence service similar to Lloyds.

Italy and Spain have had special commissions at work for some time preparing plans for reorganizing and expanding their respective foreign trade machinery. Perhaps a deeper significance attaches to the international trade agreements concluded during the present war: the Middle European Convention, Vienna, November, 1915; the Paris Economic Conference, June, 1916; and the Convention of Scandinavian States, March and September, 1916. The exact nature of these agreements, however, has not as yet been made public.

### III. EFFECT OF THE WAR UPON OUR FOREIGN TRADE POLICY

The war has also served to arouse the United States from its lethargy and brought about a sudden and phenomenal change. Our

<sup>1</sup> P. 868.

exports, especially in manufactured products, have increased with leaps and bounds. For the last fiscal year the foreign trade of the United States shows a balance in our favor of \$3,634,450,905. Indeed, the increase has been so great that today we are no longer a debtor nation. We have become the greatest creditor nation in the world. Our two superior advantages over other countries, natural resources and liquid capital, have for the time being made us the center of the commercial and financial universe. And we have made much of our opportunities. Alert and broad-visioned business men at once recognized the signs of the time, and through the activities of the United States Chamber of Commerce, the American Manufacturers' Export Association, the Pan-Pacific Union, and the Foreign Trade Council a mighty impetus was given to the new movement for an expansion of American foreign trade. Finally, public opinion at large was quickened with enthusiasm until action was called for by the federal government.

Financial problems on a scale unknown before have been undertaken and solved in a manner that surprised even the most sanguine. Our pre-war financial obligations have been paid. Gigantic loans have been made to other countries. Our banking system has reached out into oversea markets and has assumed an international character. Already our bankers have to some extent succeeded in emancipating American foreign trade from the control of foreign banks. American branch banks have been established in a number of foreign countries, following the experience of older commercial nations that foreign branches of a parent institution located in the home country are the best means of providing exchange and credit facilities abroad. On account of the lack of American banking facilities in foreign markets much of our foreign business in the past had to be transacted through banks of some other nationality, to our own great handicap in competing for the world's markets. The first of these branch banks was opened in Buenos Aires in November, 1914, and others followed in rapid succession in South America and in Europe. They promise to become advance agents *par excellence* of American business in the hitherto undeveloped markets open to it. A Federal Reserve foreign bank to be authorized in amendments to the Federal Reserve act, advocated at present by



the United States Chamber of Commerce, will add a further link to the chain of financial enterprises calculated to make foreign banking facilities available to American merchants.

A service of the most far-reaching scope, established since the outbreak of the war, is the building up of dollar exchange. Up to three years ago the dollar was not even quoted in the leading countries of South America. Now practically all the shipments of the leading commodities sent from South America to the United States are being financed through the medium of dollar credits, thus doing away with the anomaly of paying for goods imported or exported by American business houses with drafts on London.

The economic travail of the world, incident to the war, has brought about still another significant change in this country. With a keen and quick perception of the new direction given to our commercial expansion, American genius has in rapid succession initiated a series of governmental agencies whose duty it shall be to stimulate, regulate, and protect American foreign trade. And what is particularly auspicious, changes and innovations quite revolutionary in their economic scope have not only the backing of American business men but also the apparently unanimous approval of our whole nation.

The trump card of international commerce today is command of ocean transportation. Through the United States Shipping Board a new impetus is being given to American shipping interests. There was a time—prior to the Civil War—when the United States was numbered as one of the leading maritime countries of the world. In 1860 our oversea tonnage was 1,546,800 tons, while in 1890 it amounted to only 946,695 tons. Ships under foreign flags carried the bulk of American products oversea. In 1912 the tonnage of American ships leaving our own harbors amounted to nearly five million tons, as against approximately thirty million tons leaving our ports in foreign bottoms. With the rehabilitation of an American merchant marine, those old days, when American merchant ships were sailing the high seas the world over, bid fair to be revived. We have begun to recognize again how vital the promotion of our shipping industry is to a healthy development of our foreign trade. The war has unmistakably shown that the

worst interference with export business that could be expected is the lack of adequate shipping facilities. Mistakes of the past are rapidly being remedied, and the building and fostering of an American merchant marine are now in full swing.

The Federal Trade Commission by backing up the principle of legalizing co-operation for foreign trade, as provided for in the Webb-Pomerene bill, recognized the equity of a demand emanating from progressive American business men alive to the opportunities and needs of the future. Foreign manufacturers under their laws and encouraged by their governments co-operate in export trade. Under our own anti-trust laws our exporters were obliged to compete single-handed with groups that pooled their interests and operated as a unit, subject to a common agreement. By enacting the Webb-Pomerene bill into law, Congress has dispelled the feeling of uncertainty which has existed thus far in business circles regarding the scope of the Sherman Anti-Trust law in its applicability to combining for foreign trade, and has given to American business the same trade mechanism which its competitors already possess.

Last but not least in importance must be mentioned the new Tariff Commission which was organized April 1, 1917. Around the tariff cluster a great many complex and ever-changing problems, such as commercial treaties, most-favored-nation clauses, dumping, export bounties, free ports or free zones, bargaining tariffs, drawbacks, etc., all of which have a vital bearing on foreign trade. These problems possess an added importance because they are likely to lead to reciprocal action, retaliatory measures, etc., on the part of other nations, according as their interests are affected by any action on our part.

The functions of the Tariff Commission as outlined in the law creating it, which confers on it no administrative, legislative, or judicial powers or duties but makes it a body for investigation, bespeak a future handling of the tariff question more in consonance with actual economic conditions and needs than political party exigencies and expedencies, as has been the case so largely in the past. At the present time, when intertrade relations between foreign countries, economic alliances, commercial treaties and franchises are engaging the attention of statesmen and leaders

of business the world over, and in view of the vital effect of such economic measures on the industrial and labor conditions of our own country, the importance of the work which the future has in store for the Tariff Commission can hardly be underestimated.

#### IV. FUTURE FOREIGN TRADE PROBLEMS

Some of the foreign trade problems with which American business will have to wrestle in the future can be foreseen even now. Our financiers are already asking themselves what the standard of value of the world will be in the future, whether it will be gold alone or gold and silver. The cry of warning has been given to take heed, so that the world-wide recuperation in finance and trade may proceed along practical lines, and that the credit system of the world may not be strained.

We all know that a considerable part of our present foreign trade is of a hothouse character and will not continue permanently. After the war a readjustment must be made, and it will be interesting to see whether business will go on without serious interruption or whether we shall have to pass through a period of stagnation. As a result of the war a large number of our industries have doubled or trebled their output. When the time for industrial demobilization arrives, they will be burdened with a tremendous overhead expense, unless an extension of American trade into foreign countries can serve as an outlet for their products and act as a foundation on which this enlarged overhead expense can rest and by which it may gradually be absorbed. And then, too, ready opportunity for investment in domestic markets of an increasing accumulation of wealth will be lacking unless we can extend our markets elsewhere. Leading American business men have made this one of their main arguments in advocating the passage of the Webb-Pomerene bill by Congress. Co-operation in foreign trade, they contend, will go a long way toward stabilizing domestic production after the war.

Then there is the Panama Canal, which has an unquestioned economic value, the full scope of which is being realized more and more as the changes in trans-Pacific shipping brought about by the war become more apparent. It will be one of the post-war problems to decide upon a policy best suited to enhance the canal's

economic efficiency. Its direct effect upon ocean steamship routes, the influence it exerts upon transcontinental railroad freight rates, its bearing on coastwise shipping—these are but a few of the highly momentous questions to which American business statesmanship will have to direct its attention in the future.

Present indications are that the various phases of our Pacific trade will presently crystallize into a problem all by itself. Even now the great lumber and milling industries of our Pacific Northwest, with their present restricted markets, offer problems of their own which are of vital importance to the industrial expansion of our far western states. Japanese supremacy in trans-Pacific shipping, rate discriminations against American cargoes, the open door in China, trade with the Philippines and with Australia, are other questions with which, sooner or later, we shall have to reckon.

What vast possibilities for extending our foreign trade open before our eyes if we consider that over half of the human race live in the countries bordering on the east shores of the Pacific, and that 80 per cent of the world's people live in the countries bordering on the Pacific Ocean, all of which immense territory is within easy reach of our Pacific Coast harbors! And on the Pacific, too, the war has wrought important changes. Almost overnight it has made the Pacific the great potential theater of the world's commerce. Of all the changes the one of greatest interest to us is the dislodgment of the artificial channel of trade built up by Europeans via the Suez Canal. Submarine warfare in the Mediterranean has shifted the well-defined trade route formerly followed and has compelled British, Dutch, French, and Japanese lines to abandon the Suez Canal route to the great benefit of American manufacturers. For although the United States was one of the largest consumers of the products of the East Indies, such as rubber, spices, etc., we were receiving them prior to 1916, not directly, but almost exclusively via London, Rotterdam, and Hamburg. And all this in spite of the fact that the distance from Singapore via Suez and London to New York is 12,448 miles, as against a distance of 7,541 miles from Singapore to San Francisco.

As a result of the rearrangement of trade routes, San Francisco's chances of becoming the greatest distributing port of the Pacific for

goods en route to the markets of the Orient are now more promising than ever before. The marvelous increase in the balance of trade as displayed in the San Francisco and Seattle clearing house balances during the past two years speaks well for the enterprise and success of our Pacific Coast importers and exporters.

However, it is a serious problem how much of this trade will survive the keen competition which is bound to follow the present war. To turn permanently toward the United States its legitimate share of the commerce to the Orient, which for many years has been going westward and enriching the nations which have heretofore controlled that great traffic, will require the united efforts of our business men and of our government for years to come.

Big trade problems will have to be solved. In Hawaii we possess the crossroads of the Pacific. Intelligent development of its strategical advantages, linking together as it does our commercial interests with the markets of the Orient, is of prime importance. Encouragement of our Philippine trade along the lines begun by the Federal Reserve Board is proof of what government co-operation can achieve.

To all appearances we have a great future in China, due to the generous and fair treatment which our government in the past, particularly after the Boxer troubles, has accorded to that country. If the good feeling thus developed be cultivated in the future and we continue to stand in China as the exponents of fair treatment, there is no reason to doubt that an increasing share of her business will be given to us.

A concrete instance of where a constructive American foreign trade policy might prove helpful to American business interests in China is in the American company laws which, on account of their lack of uniformity for many years, have placed American firms in Hong Kong, Kobe, and other trade centers at a serious disadvantage as against their competitors, particularly the Japanese, whose modern company laws, based on the German, have very greatly facilitated Japanese commercial enterprise.

#### V. FOREIGN TRADE AND INTERNATIONAL POLITICS

In the foregoing we have been considering certain measures and problems connected with the expansion and protection of American

foreign trade primarily from a domestic viewpoint. Several of them, however, as well as others yet to be mentioned, have a much wider bearing, and affect closely some vital interests of other nations. And it is this broader, international aspect of trade which to all appearances will have to engage the attention of our business men and statesmen in the future in a measure entirely without precedent heretofore, as regards the scope as well as the prime importance of the issues involved.

One of the object-lessons brought home to us by the present war is that disagreement and animosities growing out of commercial rivalry between nations are likely to react strongly on the political relationship of the respective countries. The present war is in this respect but a repetition of similar events in the past history of international trade. It is but another illustration that property rights and trade rivalries are the chief factors in international complications. Of late the conviction is crystallizing more and more among men of all nations that to avoid the repetition of such a calamity as a world-war involves the co-operation of the leading powers in guaranteeing to each nation the fullest opportunity for her legitimate business expansion without menacing others. The plan embraces an international agreement for the suppression of all systematic efforts to force the trade of a country to the disturbance of normal trade relations, and of other less high-handed but more insidious methods of unfair competition.

During the past twenty-five years competition in the world-markets became enormously keen. In the wild scramble for trade the standards of honest business were disregarded more and more by all the various rival nations. In the absence of any special regulations or legislation, it appeared as though a silent understanding prevailed in wide circles that foreign trade was subject to a code of business ethics widely at variance with the rules observed in domestic trade. What was frowned upon as unethical and poor business policy, if not illegal at home, was condoned and winked at or openly espoused when foreign markets formed the basis of operations and foreigners were the competitors. High-minded men of all nations have long observed with concern the growing tendency of modern international trade toward selfish exploitation, concession hunting, cut-throat competition, and commercialistic practices

of the most sordid type. Time and again complaints have been voiced, retaliatory measures threatened, and more than once serious friction has ensued.

Far-visioned statesmen realized that matters could not drift on much longer. Efforts were made to develop an international law on the subject of commercial disputes between private persons and foreign governments or between citizens of different states, and to establish the trade of the world upon certain broad principles of equity and of community of interests.

The inadequacy of the present state of the law on international commercial disputes began to be felt more and more. Only in exceptional instances were national judges sufficiently informed on points of law, still ill-defined, to give proper judgment on questions at issue. In several cases, involving large money values, the lack of a qualified tribunal made itself felt very strongly. Furthermore, there was no guaranty that in every state the courts would decide in an entirely independent and unbiased manner in a case where the interests of a foreigner were involved. For obvious reasons a certain disinclination prevailed, too, on the part of business men to bring suit in a foreign court against the respective foreign government or one of its citizens.<sup>1</sup>

Presently these intolerable conditions became the subject of national and international discussion, and the fact was brought out that what was most needed was a means for the suppression of unfair competition in the way of some international agreement. Experience showed that certain unfair trade practices required concerted action for their suppression. Remedial action was finally initiated. The plan that has found most approval calls for a general legal provision declaring all business practices illegal which are contrary to good morals. A general provision of this nature is to be supplemented by a number of additional provisions each one of which applies to a specific case of unfair competition.

Article 1382 of the French Civil Code is generally considered a model provision of this kind, and many other countries embodied

<sup>1</sup> See citations in Report by Die Aeltesten der Kauffmannschaft von Berlin, etc., presented by Dr. Max Apt (*International Congresses of Chambers of Commerce and of Commercial and Industrial Associations* [Boston, 1912]), pp. 1 f.

a similar provision in their laws on this subject. This article provides as follows: "Any act whatsoever by a person, which causes injury to another, obliges him by whose fault it happened to compensate it." Under this article acts of unfair and unlawful competition have been actionable in France since its adoption in 1808.

The German Unfair Competition law of June 7, 1909, contains a similar clause which provides that acts repugnant to good morals afford grounds for an action to enjoin the practice and to recover damages.

The pioneer body advocating the suppression of unfair competition by international agreement is the International Union for the Protection of Industrial Property. While this union originally concerned itself primarily with the protection of patent rights, unfair competition has been a subject of discussion at several of its meetings. The need of uniform legislation on this subject has been fully and officially recognized, and at the congress held in Washington, D.C., in 1913, the following provision was added to the Articles of Agreement of the Union: Art. X<sup>bis</sup>: "All the contracting countries agree to assure to the members of the Union an effective protection against unfair competition." Art. II of the Agreement<sup>1</sup> provides in part as follows:

The subjects or citizens of each of the contracting countries shall enjoy, in all other countries of the Union with regard to . . . suppression of unfair competition, the advantages which the respective laws now grant or may hereafter grant to the citizens of that country.

Consequently they shall have the same protection as the latter and the same legal remedies against any infringements of their rights, provided they comply with the national laws of each State upon its own citizens. Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of this Union.

The following states are signatory members of this Convention: United States of America, Germany, Austria, Hungary, Belgium, United States of Brazil, Cuba, Denmark, Dominican Republic, Spain, France, Great Britain, Italy, Japan, United States of Mexico, Norway, Netherlands, Republic of Portugal, Servia, Sweden, Switzerland, and Tunis.

<sup>1</sup> Convention between the United States and other powers for the protection of industrial property. Treaty Series No. 579, Washington, 1913.



A further international agreement for the suppression of unfair competition was made by the Middle-European Economic Association, a semi-official organization representing Austria-Hungary, Belgium, and Germany. At the Budapest meeting of the Association in January, 1914, the subject of national as well as international legislation for the suppression of unfair competition was discussed by some of the leading European authorities on the subject. The consensus of opinion among the delegates was that the following practices should be covered by specific legal provisions: fake advertisements, misappropriation and misuse of distinguishing marks for the purpose of enticing customers of a competitor, disparaging competitors, betrayal or other violation of trust, spying out of business and trade secrets, and fraudulent clearance sales.

Parallel to the activities of these official or semiofficial bodies mention must be made of the deliberations of the Sixth International Congress of Chambers of Commerce at Paris in 1914. At this Congress a plan was submitted and favorably commented on which provides (1) for the general adoption internationally of the French system, that is, of an article similar to Section 1382 of the French Civil Code, and (2) official recognition by all countries of unfair competition as a penal offense.<sup>1</sup>

For the practical operation of this plan it was proposed to establish an international office at Berne, Switzerland, for the purpose of furnishing legal information to the business men of all the nations that are members of the agreement. This office would serve in the capacity of an international legal clearing house for all matters relating to unfair competitive methods in international trade. One of the main duties of this central office would be to bring cases of unfair competition, concerning which complaint has been filed, to the attention of the proper authorities within whose jurisdiction the case belongs.

While the efforts, just mentioned, to come to an international understanding with respect to unfair competition in foreign trade are of a preliminary character, they unquestionably constitute an admirable and serviceable groundwork for future action along these lines. What appears to be particularly auspicious is the fact that

<sup>1</sup> *Rapport présenté au nom de l'Association des Anciens Élèves de l'École des Hautes Études Commerciales*, by M. Depuichault (Liège, 1914), pp. 5 f.

already a precedent exists which proves the practicability of the plan. We refer to the Brussels Sugar Convention, March 5, 1902. By joint international agreement the dumping of sugar into foreign markets was effectively checked, and thus a practice was eliminated which was detrimental to the sugar industries of most of the leading sugar-producing countries of the world. The success achieved by the Brussels Sugar Convention directly suggested to several far-visioned statesmen and economists the expediency of applying the same principle to other phases of international commerce and trade as a means of protecting the common interests. They went a step further and advocated the establishing of an international tribunal for settling commercial disputes and for supervising competitive trade practices in the world-markets.

The practice of flooding foreign markets with cheap goods has been a source of much complaint. As a means of self-protection Canada and Australia have passed anti-dumping laws. Our own federal law of September 8, 1916, contains a section which declares it a criminal act to import any article systematically into the United States at a price substantially less than the actual market value abroad plus certain charges, with the intention of destroying, injuring, preventing the establishment, or monopolizing the trade in the imported article. This law also provides against so-called "full line forcing"; that is, articles will be assessed with a double duty which are imported into this country under an agreement that any person shall not use, purchase, or deal in or shall be restricted in his using, purchasing, or dealing in the articles of any other person.<sup>1</sup>

In 1902 four leading statesmen of Europe, independent of one another, took a public stand in favor of some such scheme. They were Count Sergius Witte of Russia, Count Goluchowski of Austria, Luigi Luzzatti of Italy, and Herr E. Gothein, a prominent member of the German Reichstag. Their avowed purpose was to protect European industries against American trusts and particularly against alleged dumping of American goods in European markets.

In the Vienna *Neue Freie Presse* of October 5, 1902, Luzzatti wrote as follows:

From the tribunal of the *Neue Freie Presse* I call upon the countries of the "Dreibund" to call a conference of European states. France and Russia will

<sup>1</sup> Public Doc. No. 271, 64th Congress, 2d sess., 802.

gladly accede. Commercial treaties are the synthetic result of the endeavor to protect domestic labor, and of the need for foreign goods. The trusts destroy the natural prerequisite of commercial treaties. They sell their goods, for reasons which frequently are only partly known, below the cost of production and upset the whole economic life of a nation.

Herr Gothein also advocated similar international action. During a session of the Reichstag, October 30, 1902, he said among other things: "The most satisfactory way of preventing cheap export sales is by international regulation along the lines of the Brussels Sugar Convention." The leading exponent of this idea was Count Witte, then Russian Minister of Finance. He formulated his views in a series of articles which appeared in his Russian newspaper organ in 1902, and involved substantially the same machinery as that constructed by the Brussels Sugar Convention.<sup>1</sup> Count Witte had been primarily instrumental in bringing about the Brussels Convention, and it was a favorite plan of his to establish a firm basis for a permanent world-peace by settling commercial disputes and by suppressing objectionable and unfair methods of international trade by joint agreements among the different nations concerned.

The outbreak of the Russo-Japanese war put a stop to further action along this line, and since then the whole movement has been at a standstill in so far as official action by authorized representatives of different states is concerned. But again practical business men took hold of the plan where political leaders had failed. At the meeting of the International Chambers of Commerce at Milan in 1906,<sup>2</sup> the Chamber of Commerce of Barcelona recommended that an international commercial court of arbitration be established. At the Fifth International Congress of Chambers of Commerce at Boston in 1912 the plan was again taken up.<sup>3</sup> Among the different bodies which took a pronounced stand in favor of definite action

<sup>1</sup> *Commercial No. 1* (London, 1903), p. 7.

<sup>2</sup> Congrès International des Chambres de Commerce et des Associations Commerciales et Industrielles. Milan, 24 au 27 Septembre 1906. *Compte Rendu Sténographique des Séances* (Mons, 1906), pp. 20, 76, 78 f.

<sup>3</sup> *Fifth International Congress of Chambers of Commerce and Commercial and Industrial Associations, September and October, 1912* (Boston 1913), pp. 153, 167, 170.

was the Association of Elders of the Merchants of Berlin, which submitted a memorandum in favor of an international commercial court.

Still later a number of prominent authorities in political science and international law have added additional impetus to the movement. The American Society for the Judicial Settlement of International Disputes has become the forum through which leading American jurists have voiced their suggestions concerning the establishment of a world-court for judicial settlement of disputes between nations. Organizations with similar aims are working along the same lines in several foreign countries. The International High Commission, which grew out of the Pan-American Financial Congress that met in Washington, D.C., in May, 1915, bids fair to become the nucleus for similar action with respect to commercial intercourse among the Republics of America. Already an agreement between the Chamber of Commerce of the United States and the Bolsa de Comercio of Buenos Aires, Argentina, has been made which provides that commercial disputes between business men of the two countries may be referred to a joint committee of arbitration.<sup>1</sup>

#### VI. A CONSTRUCTIVE NATIONAL FOREIGN TRADE POLICY

If we glance once more over the remarkable changes which within the past three or four years have transformed our commercial relations with foreign countries, we marvel at the success with which American genius has applied itself to the task suddenly thrust upon it. And yet we cannot fail to recognize that our whole foreign trade mechanism is handicapped by a serious mistake of organization.

At the outset of this discussion we emphasized the fact that the outstanding feature of the machinery of export trade extension constructed by England, Germany, Japan, and other leading commercial countries consists in co-ordinating all efforts in harmony with a well-planned national foreign trade policy. Right here lies our weak point. Our efforts thus far lack cohesiveness and co-operation on a large scale. We have as yet no definite foreign trade program. The Federal Trade Commission, the Shipping Board, and the

<sup>1</sup> E. B. Filsinger, *Trading with Latin America* (New York, 1917), p. 15.

United States Tariff Commission are independent agencies without any official representation at the Cabinet table. Each of these bodies, as well as the Bureau of Foreign and Domestic Commerce, and some smaller but not less important divisions of the federal government, works along its own plans, more or less without regard to a common prearranged program. It needs no elaborate argument to show that under these circumstances the efficiency of service that results from concerted action and which is indispensable to success in foreign trade will be impossible.

In order to bring about a greater degree of centralization of efforts it might prove practicable to form a Federal Foreign Trade Council, consisting of a representative of each of the above-named federal agencies, under the chairmanship of the Secretary of Commerce.

Such a council, focusing the various government activities and in close touch with American export interests, might well voice the aspirations of our whole people, and become the instrument around which might crystallize an intelligent, consistent, and effective national foreign trade policy which would guide us as a nation in the new era of world-history on the threshold of which we are standing—an era in which it is to be hoped that peace between nations will mean not merely cessation from fighting with huge armies and navies for mutual destruction, but working together in trade and all political relations, for the happiness instead of for the misery of peoples. This is sound doctrine economically as well as from an ethical and moral point of view.

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